

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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ESTATE OF MICHAEL EDWARD BELL, by  
Special Administrator Michael Martin Bell,  
KIM MARIE BELL, MICHAEL MARTIN BELL,  
and SHANTAE BELL,

Plaintiffs,

Civil Action No. 05-C-1176

v.

OFFICER ERICH R. STRAUSBAUGH,  
OFFICER ERICH S. WEIDNER,  
LIEUTENANT DAVID H. KRUEGER,  
OFFICER ALBERT B. GONZALES,  
KENOSHA POLICE DEPARTMENT,  
CITY OF KENOSHA,

Defendants.

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**AFFIDAVIT OF PATRICK O. DUNPHY IN SUPPORT OF PLAINTIFFS'  
MOTION FOR DEFAULT JUDGMENT OR TO STRIKE DEFENDANTS'  
AFFIRMATIVE DEFENSES FOR THE DEFENDANTS'  
FRAUD UPON THE COURT**

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STATE OF WISCONSIN            )  
  ) SS.  
COUNTY OF WAUKESHA        )

**PATRICK O. DUNPHY**, being first duly sworn on oath, states as follows:

1. I am an attorney at law associated with the law firm of Cannon & Dunphy, S.C., attorneys retained to represent the plaintiffs, Kim Marie Bell, Michael Martin Bell, and Shantae Bell. I make this Affidavit in Support of Plaintiffs' Brief in Support of Plaintiffs' Motion for Default Judgment or to Strike Defendants' Affirmative Defenses for the

Defendants' Fraud Upon the Court.

2. Attached hereto as EXHIBIT 1 are true and correct copies of pages 1-3, 47-48, 55-56, 62-67 from the deposition of Todd Thorne, dated May 31, 2007.

3. Attached hereto as EXHIBIT 2 are true and correct copies of pages 1-3, 17-21, 25, 28, 41-42, 48, 50-51, 54-55, and Exhibits 50, 51, and 52 from the deposition of David H. Krueger, dated April 30, 2007.

4. Attached hereto as EXHIBIT 3 are true and correct copies of pages 1-3, 7-9, 13, 18-20, 23-24, 28-29, 40-43, 45-46, 48-49, 57-58, 67, 69, 73, and Exhibits 33 and 36 from the deposition of Albert B. Gonzales, dated April 30, 2007.

5. Attached hereto as EXHIBIT 4 are true and correct copies of pages 1-2, and Exhibit 107 from the deposition of Daniel Strash, dated June 29, 2007.

6. Attached hereto as EXHIBIT 5 are true and correct copies of pages 1-3, 73, 78, and 79 from the deposition of Erich Strausbaugh, dated April 30, 2007.

7. Attached hereto as EXHIBIT 6 are true and correct copies of pages 1-3, 15-16, 20-37, 39, and Exhibits 63, 64, 68, 75, 76, and 78 from the deposition of P. Douglas Kelley, M.D., dated May 21, 2007.

8. Attached hereto as EXHIBIT 7 are true and correct copies of pages 1-2, 32, and 38 from the deposition of Shantae Bell, dated March 6, 2006.

9. Attached hereto as EXHIBIT 8 are true and correct copies of pages 1-3, 24-25, 29, and 30 from the deposition of Francis Clark, dated June 6, 2007.

10. Attached hereto as EXHIBIT 9 is a true a correct copy of the Wisconsin State Crime Lab report dated January 6, 2005.

11. Attached hereto as EXHIBIT 10 are true and correct copies of pages 1-2, and 58-59 from the deposition of Tom Vieth, dated June 29, 2007.

12. Attached hereto as EXHIBIT 11 is a true and correct copy of Defendant Officer Albert B. Gonzales' Responses to Plaintiffs' Rule 36 Requests for Admission, dated June 15, 2007.

13. Attached hereto as EXHIBIT 12 are true and correct copies of pages 1-3, 42, and 46-47 from the deposition of Erich Weidner, dated April 30, 2007.

14. Attached hereto as EXHIBIT 13 is a true and correct copy of Defendants' Responses to Plaintiffs' Fourth Set of Written Interrogatories Dated June 19, 2007 to Albert B. Gonzales, dated August 8, 2007.

15. Attached hereto as EXHIBIT 14 is a true and correct copy of Defendant Officer David H. Krueger's Responses to Plaintiffs' Rule 36 Requests for Admission, dated June 15, 2007.

16. Attached hereto as EXHIBIT 15 is a true and correct copy of Defendants' Responses to Plaintiffs' Fifth Set of Written Interrogatories Dated June 19, 2007 to David H. Krueger, dated July 27, 2007.

17. Attached hereto as EXHIBIT 16 is a true and correct copy of the Mission Statement from City Kenosha Police Department home webpage.

Dated at Brookfield, Wisconsin this 9<sup>th</sup> day of November, 2007.

**CANNON & DUNPHY, S.C.**  
Attorneys for Plaintiff

By: s/Patrick O. Dunphy  
Patrick O. Dunphy, State Bar No. 1016947

Subscribed and sworn to before  
me this 9<sup>th</sup> day of November, 2007.

Judy A. Beine  
Notary Public, State of Wisconsin  
My Commission expires 3/29/09

**P.O. ADDRESS:**

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